

AMENDED IN ASSEMBLY JUNE 1, 2004

AMENDED IN SENATE APRIL 28, 2004

AMENDED IN SENATE APRIL 13, 2004

**SENATE BILL**

**No. 1189**

**Introduced by Senator Chesbro**

February 9, 2004

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An act to amend Section 94 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1189, as amended, Chesbro. Department of Transportation: contracts.

Existing law provides that the Department of Transportation has full possession and control of all state highways and all property and rights in property acquired for state highway purposes. Existing law authorizes the department to enter into contracts required for the performance of its duties.

This bill would include certain contracts with federally recognized Indian tribes within the department's authority, *and would require off-reservation traffic mitigation contracts with those tribes to meet certain conditions.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 94 of the Streets and Highways Code is  
2 amended to read:

1 94. (a) The department may make and enter into any  
2 contracts in the manner provided by law that are required for  
3 performance of its duties, ~~including contracts with federally~~  
4 ~~recognized Indian tribes~~, provided that contracts with federally  
5 recognized Indian tribes shall be limited to activities related to  
6 on-reservation or off-reservation cultural resource management  
7 and environmental studies *and off-reservation traffic impact*  
8 *mitigation projects*.

9 (b) *To implement off-reservation traffic impact mitigation*  
10 *contracts with federally recognized Indian tribes, all of the*  
11 *following shall apply:*

12 (1) *Any contract shall provide for the full reimbursement of*  
13 *expenses and costs incurred by the department in the exercise of*  
14 *its contractual responsibilities. Funds for the project shall be*  
15 *placed in an escrow account prior to project development. The*  
16 *contract shall also provide for the waiver of limited or partial*  
17 *sovereign immunity by that Indian tribe for the purposes of the*  
18 *contracted activity.*

19 (2) *The proposed transportation project shall comply with all*  
20 *applicable state and federal environmental impact and review*  
21 *requirements, including, but not limited to, the California*  
22 *Environmental Quality Act (Division 13 (commencing with*  
23 *Section 21000) of the Public Resources Code).*

24 (3) *The department's work on the transportation project under*  
25 *the contract shall not jeopardize or adversely affect the completion*  
26 *of other transportation projects included in the adopted State*  
27 *Transportation Improvement Program.*

28 (4) *The transportation project is included in and is consistent*  
29 *with the affected regional transportation plan.*